

REMARKS

Claims 13 through 21 are pending in the application. Claims 1 through 12 and 22 through 35 are withdrawn from further consideration as being drawn to a non-elected invention, and are hereby canceled.

Claims 13, 17, and 19-21 have been amended. Support for the amendments is present throughout the specification and claims as originally filed. No new matter has been introduced by this amendment.

Claim Rejections Under 35 U.S.C. § 112, Second Paragraph

Claim 13 has been rejected as indefinite because it is allegedly unclear where the analyte detection means and the control detection means are located in the device. As amended, claim 13 requires that the detection means comprises multiple particles disposed along the test strip.

Claims 17 and 21 have not been given patentable weight because “optional” steps are recited. The use of alternative limitations such as “optional” or “optionally” are permitted so long as there is no ambiguity as to which alternatives are covered by the claim (MPEP 2173.05(h)). Applicants urge that it is clear for both claims what the optional alternative is.

Claim 19 has been rejected “because it is unclear what is being claimed.” Applicants respectfully submit that the amendments to claim 19 render this rejection moot.

Reconsideration and withdrawal of the rejections is respectfully requested.

Claim Rejections Under 35 U.S.C. § 102(b)

Claims 13 through 21 have been rejected under 35 U.S.C. § 102(b) as being anticipated by May et al. (WO 88/08534).

May does not teach or suggest an analytical test device comprising a test strip having a control results zone and a test result zone; an analyte detection means comprising multiple particles; and a control detection means, wherein the control detection means allows a user to determine that at least a portion of a liquid sample applied to the device

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has moved through said test result zone and the completion of the assay, the control means comprising at least one detectable dye reagent disposed along the test strip downstream of the particles.

Reconsideration and withdrawal of the rejections is respectfully requested.

Conclusion

In view of the above amendments and remarks, the Applicants believe that the pending claims are in condition for allowance. If a telephone conversation with Applicant's Attorney would expedite prosecution of the application, the Examiner is urged to contact the undersigned.

Respectfully submitted,
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